

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA,

v.

JEREMY W. HARRIS,

Defendant.

DECISION AND ORDER

6:15-CR-06169 EAW


The Court is in receipt of a letter from Defendant Jeremy Harris (“Defendant”), dated March 1, 2017, inquiring about the status of his notice of appeal. (Dkt. 38). Defendant provides a copy of his prior letter, dated August 28, 2016, in which he expresses his intent to appeal his sentence. (*Id.* at 2). Defendant appears to have written both letters without the assistance of counsel. In light of Defendant’s expression of his intent to appeal set forth in the letter dated August 28, 2016, the Court deems that letter to be Defendant’s notice of appeal. *See Meilleur v. Strong*, 682 F.3d 56, 60 (2d Cir. 2012) (holding that the court will “construe notices of appeal liberally, taking the parties’ intentions into account” (citation omitted)).

Judgment was entered on August 25, 2016. (Dkt. 36). Defendant’s notice of appeal was never docketed when it was received. Had it been docketed, the notice of appeal would have been filed within the 14-day period set forth under the Federal Rules of Appellate Procedure. *See Fed. R. App. P. 4(b)(1)(A)* (requiring notice of appeal to be filed within 14 days of the entry of judgment); *see Houston v. Lack*, 487 U.S. 266 (1988)

(holding that a *pro se* prisoner satisfies the time limit for filing a notice of appeal if he delivers the notice to prison officials within the time specified).

Accordingly, the Court finds that Defendant's notice of appeal (Dkt. 38 at 2) was timely filed on August 28, 2016, and directs the Clerk to accept it for filing as of that date. *See Mallet v. Johnson*, No. 09 Civ. 8430(JGK), 2012 WL 2367070, at *1 (S.D.N.Y. June 20, 2012) ("While the plaintiff's notice of appeal was not actually docketed . . . during [the relevant] time period, it appears . . . that the notice of appeal was in fact received by the Court during this time period. Accordingly, the Court finds that the plaintiff's filing of the notice of appeal was timely and directs the Clerk to accept it for filing."); *United States v. Alejo Concepcion*, No. 06 Cr.743-01(DC), 2007 WL 2319119, at *1 (S.D.N.Y. Aug. 13, 2007) ("[Defendant] has not formally filed a notice of appeal, but by letter dated June 1, 2007, he clearly expressed his intent to appeal. Accordingly, on June 22, 2007, I ordered the letter to be deemed as his notice of appeal to the United States Court of Appeals for the Second Circuit. The letter was docketed as a notice of appeal on June 22, 2007.").

SO ORDERED.



ELIZABETH A. WOLFORD
United States District Judge

Dated: March 17, 2017
Rochester, New York